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May 24, 2005

BY E-FILING AND BY HAND

Mary L. Cottrell, Secretary
Department of Telecommunications & Energy
One South Station
2nd Floor
Boston, MA 02110

Re: D.T.E. 01-34 Investigation by the Department of Telecommunications and Energy on its own motion pursuant to G.L.c. 159, §§ 12 and 16, into Verizon New England d/b/a Verizon Massachusetts' provision of Special Access Services

Dear Secretary Cottrell:

Enclosed herewith for filing in the above-referenced proceeding, please find nine copies of the comments of XO Communications Services, Inc.

Very truly yours,

Eric J. Krathwohl

cc: Jodi Stiefel, Hearing Officer
Michael Isenberg, Director – Telecom
Service List (via e-mail)

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**COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY**

Investigation by the Department of Telecommunications
and Energy on its own motion pursuant to
G.L.c. 159, §§ 12 and 16, into Verizon New England
d/b/a Verizon Massachusetts' provision of Special
Access Services

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D.T.E. 01-34

**COMMENTS OF
XO COMMUNICATIONS SERVICES, INC.
ON AT&T COMMENTS DATED MAY 9, 2005**

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May 24, 2005

I. Introduction

On May 9, 2005 AT&T filed "Comments In Response to the Department Request" regarding parties' views on closing the docket D.T.E. 01-34 without findings. These Comments by XO Communications Services Inc. (formerly XO of Massachusetts, Inc.) ("XO"), are in response to the Department's May 10, 2005 Notice allowing comments regarding AT&T's comments.

AT&T noted that the problems that led to the Department initially opening docket D.T.E 01-34 still exist and still merited action by the Department. AT&T further noted the extensive record that had been developed through significant efforts by the Department and several parties. Further, AT&T demonstrated that the assumptions upon which the Department had based its proposal to close the D.T.E. 01-34 docket were faulty. Of particular note, AT&T provided additional information showing how Verizon's performance regarding provision of special access services is seriously deficient relative to the performance of other RBOCs. Correspondingly, XO has experienced seriously deficient special access service provisioning performance by Verizon (though XO does not have such readily digested data at hand). XO like AT&T, is a full party to this proceeding and is very concerned about the impact of Verizon's provisioning of special access services upon the ability of competitive carriers to provide sufficient service to customers and to compete fairly with Verizon with respect to such customers. XO also devoted serious efforts to assisting the Department resolve the problems associated with Verizon's special access service provisioning performance by actively participating in this proceeding.

XO agrees with AT&T that the Department should not close the docket now, apparently without a decision. Rather, the Department should conclude the proceeding by issuing an order that grants the relief sought by the competitive carriers. XO also agrees with AT&T's rationale for urging issuance of an order in this docket. The evidence already developed in this docket, and now supplemented by the additional AT&T-specific information across RBOC service territories, shows that there is a real problem that merits some action by the Department. As outlined in XO's Comments earlier in this proceeding and discussed in more detail below, there is a range of actions that the Department might take to seek to address the problem, including additional reporting requirements that might be a useful tool in encouraging improvement in Verizon's performance and possibly penalties or remedial actions directed to Verizon's performance with respect to special access service provisioning. Whatever relief might be given, it should not be limited to AT&T, but at least to other parties which have participated in the docket and who have sought improved performance by Verizon.

Nor is the existence of an open docket at the Federal Communications Commission reason for the Department to close this docket. Where the FCC has taken no action and ordered no remedy, action by the Department can both be helpful and not improperly inconsistent with whatever action the FCC may take.

II. AT&T Has Shown That a Department Decision is Necessary

As AT&T indicates, the lack of complaints since closing of the record in docket D.T.E. 01-34 cannot be taken to show that Verizon's performance regarding provisioning of special access services is now sufficient. In fact, AT&T's further data shows the contrary -- to a very disturbing degree, Verizon's performance lags all other RBOCs.

That can only hurt competitive telecommunications carriers in Massachusetts and the business customers they serve. The Department has a sufficient record upon which to issue a decision, so it should do so promptly to effect the promptest possible improvement to Verizon's performance in provisioning of special access services.

Also, AT&T's comments that no remedy will be soon forthcoming from the FCC, would appear to be more likely correct than an assumption that some FCC action will occur soon, given near total inaction on the subject for several years. Further, XO agrees with AT&T that, even if the FCC intends to act on the problem at some point, the Department's efforts can be of considerable assistance to the FCC. Considerable evidence has been developed in this docket – concluding the analysis of such evidence and making findings and ordering remedies could be very instructive to the FCC. Perhaps more importantly, the FCC has not acted to preempt any action by the Department with respect to special access services, so where there is a Massachusetts-specific problem with provision of services by a Massachusetts telecommunications carrier, it is the Department's obligation to address it. As AT&T has shown, where neither the Department, nor the FCC require improved performance (which Verizon may view as contrary to its competitive interests), Verizon is not going to improve such performance – even if it is so obliged under applicable law.

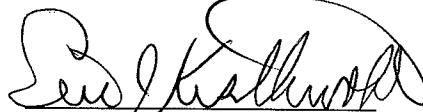
XO has previously noted (XO Reply Brief, p. 2 – July 8, 2002) that Verizon's arguments that carriers' complaints to Verizon alone can lead to sufficient remedies really does not hold water. Carriers have raised the problems of inadequate special access provisioning to no avail for some time. The bare minimum remedy that could lead to a solution is monthly reporting to the Department and carriers regarding all

Verizon's special access service provisioning, combined with required mediation with interested carriers. The reporting could allow the Department to assess the extent of the problem as an ongoing matter and, if applicable or useful, make its own comments to the FCC in that context. Additionally, XO believes that the other remedies, such as penalties for inadequate performance and specific changes to Verizon's provisioning practices with respect to special access services are permissible and would help fix the problem.

III. Conclusion

For the reasons discussed in these Comments and in XO's earlier filings in this docket, this matter is important to Massachusetts CLECS and, therefore, XO urges the Department to conclude its review in this docket and to issue an order establishing reporting requirements on special access service provisioning performance by Verizon and mediation with affected carriers, and order such changes to special access service provisioning practices to bring Verizon's performance up to par relative to other RBOCs.

Respectfully submitted,
XO Communications Services Inc.
By its counsel,



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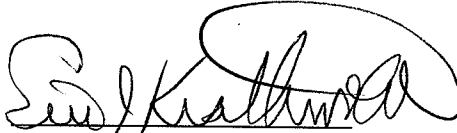
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D.T.E. 01-34

CERTIFICATE OF SERVICE

I hereby certify that on this 24th day of May, 2005, copies of the foregoing were sent via e-mail and/or regular mail to the parties on the service list.


Eric J. Krathwohl

Dated: May 24, 2005